IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS Nos 3570 , 5848, 5933, 7068 to 7072 and 7548 of 1988

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NALINIBEN J GANDHI

Versus

STATE OF GUJARAT

Appearance:

MR AMIT M PANCHAL, for Petitioners

MR PR ABICHANDANI LD.A.G.P. FOR RESPODNETS

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT

Date of decision: 18/07/2003

ORAL JUDGEMENT

In this group of nine petitions, substantial, identical issues and questions have been arisen and common question of law are involved and, therefore, they are being

disposed of by this common judgment.

It appears from the record that a group of similar and identical matters came to be disposed of by this Court expounding the relevant proposition of law involved and decided group of the matters, but for the fact that nine matters in this group, could not be traced by the Registry, they cannot be placed along with earlier group, though being identical matters.

Truly speaking, after having examined the factual profile and considering the relevant proposition of law and the decision rendered by the Division Bench of this Court in following two groups,

[1] S.C.A.NO. 648 OF 1991 in the case of P.Channal Services Vs. State of Gujarat

ALONG WITH S.C.A.No.8173 of 1988 in the case of Hardeep Singh Bhopal Vs. State of Gujarat and ors. and

[2] S.C.A.No.8175 of 1988 in the case of Mukesh B.Goswami Vs. State of Gujarat and ors. ,

which came to be adjudicated upon on merits by the Division Bench of this Court [Coram : K.G.Balkrishnan as he then was, and Mr.J.M.Panchal, J J] by common judgment dated 02.5.1998. The Special Civil Applications No.7690 of 1989 and 6827 of 1990 were placed before another Division Bench, to which one of us [J.N.Bhatt,J] was party [Coram: J.N.Bhatt, K.A.Puj, J J] by common judgment sane proposition of law is followed.

We have no hesitation in finding and holding in light of the factual profile and the relevant legal settings and the principles propounded and laid down in earlier two decisions enumerated hereinbefore, no further consideration is required and we are in full agreement that this group of petitions are, squarely, covered by the decision rendered in those matters and, therefore, in this group of petitions, the following directions are issued.

[1] It will be open for the petitioner to apply to the competent authority within eight weeks from today for licensee under the Indian Telegraphy Act;

[2] Applications of the petitioners, if earlier, are rejected, will also be entitled to apply for necessary licence within eight weeks from today;

[3] The competent authorities under the Indian Telegraph Act and Indian Wireless Telegraphy Act shall dispose of the applications received by them within eight weeks from the date of receipt thereof;

[4] Until the decision on the applications has been taken on merits, the authorities concerned shall not take coercive action for maintaining and working their video cable networks on the ground that they are violating the provisions of the Indian Telegraph Act and the Indian Wireless Telegraphy Act.

For the aforesaid reasons and the proposition of law and in view of the earlier decisions of the Division Bench of this Court, this group of nine petitions shall stand partly allowed. Rule is made absolute accordingly to the aforesaid extent only, without any order as to costs.

Needless to say that interlocutory relief granted earlier in each petition shall not assume any survival value and therefore, it shall stand vacated.

Since in three matters being Special Civil Applications No.5848 and 5933 of 1988, in view of the peculiar facts and circumstances and the factum of the death of the original advocate representing the petitioners having lost his life, and in absence of any substitute, the Registry is directed to send a copy of this judgment immediately since time bound actions and steps are directed to be taken including the petitioners.

[J.N.BHATT, ACTING C J]

SNS